STUDENT IDENTIFICATION NO

MULTIMEDIA UNIVERSITY

# MULTIMEDIA UNIVERSITY

# FINAL EXAMINATION

**TRIMESTER 2, 2022/2023**

## ULS3612 – LAW OF SUCCESSION

(All Sections/Group)

08 JULY 2023

Reading Time : 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time : 9.15 a.m. – 12.15 p.m.
(3 Hours)

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**INSTRUCTIONS TO STUDENTS**

1. Students will have **fifteen minutes** during which they read the paper and make rough notes ONLY on their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 4 Pages and 4 Questions only.

3. This Question paper consists of 2 sections. Attempt **ONE** question only in **Section A** and all **THREE** questions in **Section B**. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into the examination hall CLEAN and ORIGINAL copy of:
   i. **Wills Act 1959**
   ii. **Distribution Act 1958**
   iii. **Inheritance (Family Provision) Act 1971**
   iv. **Probate and Administration Act 1959**
   v. **Small Estates (Distribution) Act 1955**

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

## SECTION A: ANSWER EITHER QUESTION 1(a) or 1(b)

### QUESTION 1(a)

Donnie married Susie in the year 1990. They were blessed with a son, Merlin and two daughters, Megan and Kathy. Donnie is working as a lecturer at Multiverse University in Melaka. In January 2007, Donnie received an offer to further his doctoral studies at the University of Oxford for five years.

Before Donnie went to London, he created a will in February 2007. The will was attested by his best friend Alan, and his driver, Mr Hassan in the lawyer's office. The following are some of the contents of the will executed by Donnie and the will specifically mentioned that "the will is irrevocable':

a. A house situated in Terengganu to his daughter, Megan
b. Two lands situated in Kelantan to his son, Merlin.
c. The matrimonial home to his wife, Susie.
d. All his money is in a joint account to Susie.
e. All his money is in his personal account to his parents, Mr Andrew Lim and Mrs Elizabeth Lim.
f. Nominate his brother, Stephen as a beneficiary to all his monies in KWSP.
g. All shares in Kenanga Berhad to his daughter, Kathy.
h. My BMW X3 to my driver, Mr Hassan, who is loyal to me and my family.
i. All other residues in accordance with intestacy rules.

After the execution of the will, Donnie wants to make some amendments and wants to add another beneficiary. He intends to give half of his shares in Kenanga Berhad to his godmother, Madam Kwan. Firstly he obliterates the sentence "*All shares in Kenanga Berhad to his daughter Kathy.*" However, the sentence after the obliteration is still apparent and can be read. Then he adds on the above of the sentence *"Half shares to Madam Kwan and another half shares to his daughter Kathy the shares in Kenanga Berhad."* Donnie has forgotten to sign the obliterated sentence and no attestation by the witnesses.

After graduating from Oxford University in the year 2012, Donnie continues to work at Multiverse University. He found out that Susie has an affair with his best friend, Callum. He created a codicil and revoked everything he bequeathed to Susie. He bequeathed all his monies in a joint account and the matrimonial home to his mother, Madam Elizabeth Lim.

Donnie dies in the year 2021. Susie consults you on the distribution of Donnie's estate by presenting the following facts:

1. Kathy, Donnie's daughter, converted to Islam.

2. Donnie's daughter, Megan, predeceased Donnie and her husband Danny, and a daughter survive her.

**Continued...**

3. Stephen, the nominee of Mr Albert's Kumpulan Wang Simpanan Pekerja (KWSP) died during the executor's lifetime.

4. Donnie's son, Merlin refuses to accept the two lands in Kelantan, because Donnie neglected him when Donnie furthered his study at the University of Oxford.

(i) Discuss the validity of the will. (10 marks)
(ii) Distribute Donnie's estate accordingly (15 marks)
(Total: 25 marks)

**or**

**QUESTION 1(b)**

Henry, age 75 was admitted to the hospital on 20 January 2020 as his cancer had become worse. He was placed under the supervision of Dr. William. He needs to be monitored by doctors and nurses for 24 hours because of his condition.

Due to his medication and treatment, he is too weak to talk or do anything. Sometimes, he could not remember his family members. There are occasions, when his wife, Donna came to visit him, and he will call her Sara. Sara is Henry's ex-girlfriend.

The nurse who is in charge of taking care of him, Susie, will always accompany him during the night because he has a problem falling asleep and need someone to accompany him. One night, he told Susie to call his lawyers and Susie ask him, "Do you remember who is your lawyer?" He easily recalled that his lawyer is Mr. Wong and gave Susie the number. He told Susie he wants to create a will and he wants to dispose quarter of his property to Susie and another quarter to the hospital for the benefit of research to find a cure for cancer. Another half of his property was only to his wife and nothing to both of his children, Zack and Morris. He claimed that his children abandoned him and do not care for him. Dr. William confirms that Henry is fit in body and mind to make the will.

On the morning of 1 April 2020, Henry felt very weak and he requested Auntie Mona who worked in the canteen to sign on his behalf. Henry asked Dr. William and Mr.Halim, the security guard to attest his will. Auntie Mona executed the will on 1 April 2020 with her thumbprint because she was illiterate in the presence of Henry only because Dr. William and Mr. Halim had other matters to attend to.

When Dr. William and Mr. Halim arrived in the room, Henry informed both of them that the thumbprint by Mona on the will is instructed by him. Dr. William attested to the thumbprint in the presence of Henry and quickly rushed to an emergency accident patient. Mr. Halim was not present when Dr. William attested the will of Henry because he needed to assist a patient to the emergency room. Mr. Halim then attested the will without Henry as Henry was taken by Susie, for his appointment with another specialist, Dr. Hassan.

Discuss the validity of the will executed on 1 April 2020. (Total: 25 marks)

**Continued...**

## SECTION B : ANSWER ALL QUESTIONS
## QUESTION 2

(a) *"Every will made by a man or woman shall be revoked by his or her marriage"*
Section 12 of Wills Act 1959

With reference to decided cases, discuss automatic revocation and the exceptions under Section 12 of Wills Act 1959. (15 marks)

(b) *"A nomination has certain testamentary characteristics. However, there is a vast difference between a testamentary paper and a disposition of a testamentary nature. A testamentary paper must satisfy the Wills Act, but a disposition might have certain testamentary characteristics without the paper containing it being a testamentary paper"*

*How Yew Hock (Executor of the Estate of Yee Sow Thoo, Deceased v Lembaga Kumpulan Wang Simpanan Pekerja [1996] 2 MLJ 474*

Explain the bodies that provide nomination with reference to the laws relating to statutory nomination and decided cases. (10 marks)

(Total: 25 marks)

## QUESTION 3

Madam Brenda passed away in 2001 and she appointed her children, Raymond, Peter and Sharon for the appointment of an executor of the estate.

Raymond has been a British permanent resident for over twenty years and was too busy with his work at the University of Southampton to administer the estate. Peter refused to accept the appointment because he had just been promoted and he need to move to Australia. Sharon is only available to execute the will and she does not have the time to manage the whole estate of the testator. The estate could not be fully administered and payments to three charities named under the will were not made.

Madam Brenda has a niece, Tuti who always assists her to renew her road tax and insurance for her 4 cars. Tuti is aware that Sharon, Raymond and Peter failed to renew the road tax and insurance of all the cars owned by Madam Brenda.

(a) Explain whether Tuti could intermeddle with the assets of the deceased, although she is not the appointed executrix. If the answer is yes, what are the duties awaiting her? (9 marks)

(b) If all the executors appointed in the will refuse to accept the appointment of an executor, explain the situation of a chain of representation with reference to authorities. (8 marks)

**Continued...**

(c) In the event both Raymond and Peter renounce their office of executorship, Sharon is the only one left to manage the property. Advise her accordingly on her duties as the executor of the estate.

(8 marks)
(Total: 25 marks)

**QUESTION 4**

Mr. Reza was a successful online trader. Since he was a very busy person, he had two staff handling his business and personal appointments. On 25 March 2022, Mr. Reza passed away due to a heart attack after he heard that his son, Kazar, had changed his religion to Christianity because he wants to marry his Chinese girlfriend, Meghan Lim. Mr. Reza was also survived by his wife, Laila, his three daughters, Karly, Khaira, and Khadriya, his two brothers, Razak and Razi, and his sister, Rezma.

Mr. Reza had left a *wasiyyah* bequeathing his apartment in Nilai worth RM200,000.00 to Kazar because he knows that Kazar cannot afford to own a house by himself as his monthly salary is very small. He also bequeathed his old Honda CRV worth RM50,000.00 and his savings in Tabung Haji worth RM100,000.00 to Karly in his *wasiyyah*. Karly later was shocked when her mother finally told her that she was adopted, and both parents kept it a secret as they do not want her to feel left out in the family. Mr. Reza failed to pay the salary for both of his staff amounting to RM4,000.00.

Mr. Reza left the following property:

i. An apartment in Nilai worth RM200,000.00;
ii. A semi-detached house in Johor Bahru valued at RM456,000.00;
iii. A Honda CRV valued at RM50,000.00;
iv. Savings in Tabung Haji amounting to RM100,000.00;
v. Money in Amanah Saham Nasional Berhad amounting to RM276,000.00;
vi. Savings in Octopus Bank amounting to RM357,500.00;
vii. His electronic gadgets are valued at RM14,000.00;
viii. Cash that he kept in his wardrobe amounting to RM2,500.00;
ix. Shares in his friend's IT company worth RM500,000.00; and
x. Savings in Lion Bank amounting to RM44,500.00.

(a) Determine the status of the *wasiyyah* and the entitlement of each legal heirs of the late Mr Reza. (17 marks)

(b) Distribute Mr. Reza's estate accordingly. (8 marks)
(Total: 25 marks)

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